

REGULAR**NUMBER: 38.770**

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING CHAPTER 10, TITLE XI OF THE MILPITAS MUNICIPAL CODE CREATING AN INSTITUTIONAL “T” ZONING DISTRICT AND AUTHORIZING FARMERS’ MARKETS CONDITIONAL USES IN THE “T” INSTITUTIONAL, “C1” NEIGHBORHOOD COMMERCIAL AND “C2” GENERAL COMMERCIAL ZONING DISTRICTS (ZT2006-6).

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by Councilmember _____ and was adopted (Second reading) by the City Council at its meeting of _____ upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals and Findings.

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing on December 13, 2006 to consider the amendments to Title XI, Chapter 10 of the Milpitas Municipal Code related to the creation of an Institutional "I" zoning district and authorizing Farmers' Markets conditional uses in the "I" Institutional, "C1" Neighborhood Commercial and "C2" General Commercial zoning districts (ZT2006-6). In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation (staff report of December 13, 2006 recommended for approval), which was presented to the City Council prior to consideration of this Ordinance.
- B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on December 19, 2006.
- C. The City Council finds that this Ordinance does not render Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan.

SECTION 2. Publication and Effective Date. Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

SECTION 3. Severability. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 4. Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby amended with the addition of the following new subsections:

Section 10 Definitions

XI-10-2.38-1.5: Farmers' Market

An event offering for sale produce, food items, and related goods and merchandise by certified growers authorized to sell, directly to consumers, products that are produced on land the producer controls or taken in consignment from other producers.

Section 10 "I" Institutional District

XI-10-10.01 Purpose

To encourage the orderly development of public service and educational uses in the community and to insure their presence as a vital part of the neighborhood balance.

XI-10-10.02 Uses Permitted

Principal permitted uses: 10.02-1 Facilities owned or leased, and operated or used, by the city of Milpitas, or county, state, or federal agencies, and the Milpitas Unified School District and any other governmental agency.

XI-10-10.03 Conditional Uses

- 10.03-1 Public or private colleges or universities
- 10.03-2 Public schools: preschool, elementary, high and junior college.
- 10.03-3 Educational institution
- 10.03-4 Government enterprise (Federal, State and Local)
- 10.03-5 Public hospital or sanitarium.
- 10.03-6 Public medical clinic or offices.
- 10.03-7 Correctional facility.
- 10.03-8 Public utility or public service use or structure.
- 10.03-9 Farmers' Market, excluding flea market.

XI-10-10.04 Height Regulations

No maximum height requirement is established.

XI-10-10.05 Area, Lot Width and Yard Requirements

No minimum lot area, yard setbacks, or floor area ratio is required.

XI-10-10.06 Off-Street Parking Requirements

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking shall be improved as provided for in Subsection 54.03.

XI-10-10.07 Areas for Collecting and Loading Recyclable Materials

There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.15 of this Chapter.

Section 43 "TOD" Transit Oriented Development Combining District

XI-10-43.05-5

"I-TOD" Areas

- (a) There will be no maximum FAR in the "I-TOD" district.

Section 18 “C1” Neighborhood Commercial District

XI-10-18.03-5.2

Farmers’ Market, excluding flea market.

Section 19 “C2” General Commercial District

XI-10-19.03-16.1

Farmers’ Market, excluding flea market.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
GENERAL PLAN AMENDMENT NO. GP2006-6 TO ESTABLISH AN
“INSTITUTIONAL” LAND USE CLASSIFICATION AND “PUBLIC FACILITY”
DESIGNATION IN THE GENERAL PLAN**

WHEREAS, the City of Milpitas initiated this General Plan Amendment to create a land use designation for “Public Facility” and a land use classification of “Institutional” which will include “Schools”, “Correctional Facility” and “Public Facility”; and

WHEREAS, this General Plan Amendment is accompanied by a proposed amendment to the Milpitas Zoning Ordinance which would create a new zoning district named “Institutional” for all land uses classified in the General Plan as “Institutional”; and

WHEREAS, General Plan Amendment No. GP2006-6 is exempt from further environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission held a public hearing to consider the General Plan Amendment No. GP2006-6 on December 13, 2006 and recommended approval; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the City Council does hereby find that approval of GP2006-6 is in the public interest and that the General Plan so amended will remain internally consistent.

BE IT FURTHER RESOLVED that the City Council does hereby approve the General Plan Amendment to establish an “Institutional” land use classification and “Public Facilities” designation.

PASSED, APPROVED AND ADOPTED this 19TH of December 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney